



NOAA FISHERIES SERVICE



Marine Mammal Incidental Take Authorizations

Overview

The marine mammal non-fishery interaction program is tasked with implementation of section 101(a)(5) (A-D) of the [Marine Mammal Protection Act of 1972](#) (MMPA), as amended (16 U.S.C. 1371(a)(5)), which provides a mechanism for allowing, upon request, the "incidental", but not intentional, taking, of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region.

MMPA Incidental Take Authorization or Letter of Authorization (LOA)

In 1981, Congress amended the MMPA to provide for "incidental take" authorizations for maritime activities, provided NMFS found the takings would be of small numbers and have no more than a "negligible impact" on those marine mammal species not listed as depleted under the MMPA (i.e., listed under the [Endangered Species Act \(ESA\)](#), and not having an "unmitigable adverse impact" on subsistence harvests of these species. These "incidental take" authorizations, also known as Letters of Authorization or LOAs, require that regulations be promulgated and published in the *Federal Register* outlining:

- Permissible methods of taking, and other means of effecting the least practicable adverse impact on the species or stock and its habitat; and,
- Requirements for monitoring and reporting of such taking.

In 1986, Congress amended both the MMPA, under the incidental take program, and the ESA to authorize takings of depleted (including endangered or threatened) marine mammals, again provided the same requisite findings could be made.

MMPA Incidental Harassment Authorization (IHA)

In 1994, MMPA section 101(a)(5) was amended to establish an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by "harassment", referred to as Incidental Harassment Authorizations or IHAs. It established specific time limits for processing IHA applications. In 1996 NMFS published regulations governing IHAs in Arctic waters via an interim final rule (50 CFR Part 216.107-108). NMFS expects to amend the interim rule to apply to all IHAs once the agency completes development of its criteria for [acoustic harassment](#). In the interim, those regulations are used as guidance for other IHA applications.

Because the IHA process eliminated the need for promulgating specific regulations on the incidental taking, IHAs have been of increasing interest since 1994 for those individuals with activities that incidentally harass marine mammals. This program allows authorizations to be issued in 120 days, instead of the 8-18 months typically needed for LOAs issued under regulations. However, NMFS is required to make the same findings required for issuing LOAs.

For more information see: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>